

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Yarbrough, et al.

Serial No.: 10/797,338
Group Art Unit: 3711
Filed: March 10, 2004
Examiner: Collins, D.R.
For: METHOD OF PLAYING A BINGO-TYPE GAME WITH A
MECHANICAL TECHNOLOGICAL AID, AND AN APPARATUS
AND PROGRAM PRODUCT FOR PLAYING THE GAME

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In response to the communication from the Examiner of February 4, 2005, the Applicant elects Species I (Figures 2A, 3, 4, 5A and 5B). The Applicant respectfully suggests that the establishment of Species II (Figure 2B) by the Examiner is inaccurate. Figure 4 is merely an enlarged, more detailed view of essentially what is disclosed in Figure 2B, and if Figure 4 is part of Species I (as the Examiner indicates), then Figure 2B should also be part of Species I.

Relative to Species I, claims 1-46 are readable thereon and claims 1-46 are generic relative to Species I.

Figures 2C and 2D of Species III have one or more mechanical die as the mechanical technological aid. There are no claims that are 'only' directed to the substance of Species III. This is why the Applicant has stated that claims 1-46 are readable on Species I and are also generic relative to Species I. Notably, dependent claims 3 and 24 recite the one or more mechanical die of Figures 2C and 2D. However, these claims are in Markush format and the other elements of these Markush claims also apply to Species I.

In view of the foregoing information, including the contention that Figure 2B (Species II) should really be a component of Species I, it is likely the Examiner's species restriction is unnecessary.

The Applicant notes that upon the allowance of a generic claim, the Applicant is entitled to consideration of the claims, if any, to additional (non-elected) species which are written in dependent form or otherwise include all of the limitations of an allowed generic claims as provided by 37 CFR 1.141.

The commissioner is authorized to charge any additional fees or credit any overpayment to our Deposit Account No. 08-2789.

Respectfully submitted,

HOWARD & HOWARD ATTORNEYS

February 16, 2005
Date

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CERTIFICATE OF MAILING

I hereby certify that this **Response to Restriction/Election Requirement** is being deposited with the United States Postal Service as First Class Mail, postage prepaid, in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on **February 16, 2005**.

Sandra Barry
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